

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

RYAN WILLIAMS,
Plaintiff,

v.

CONDENSED CURRICULUM
INTERNATIONAL,
Defendant.

Case No. 20-cv-05292-YGR (RMI)

**ORDER SETTING EXPEDITED
BRIEFING SCHEDULE RE:
COERCIVE SANTIONS ADDRESSING
DEFENDANT’S CONTINUING
DISCOVERY MISCONDUCT**

Re: Dkt. Nos. 46, 47

On November 2, 2021, the court entered an order granting Plaintiff’s motion to compel certain discovery and overruling a series of patently frivolous objections advanced by Defendant. *See* Order (dkt. 33). Thereafter, and notwithstanding this court’s order, Defendant has continued to resist and delay producing that discovery to this very day – encompassing nearly two months of disobedience to the court’s order. *See* dkt. 38, 39, 43, & 45. More than one month after being ordered to produce the discovery in question, Defendant was again ordered to make a full and complete tender of the discovery in question no later than December 10, 2021. *See* dkt. 39. By December 15, 2021, Defendant had still failed to make a full and complete tender of the outstanding discovery. *See* dkt. 43. Accordingly, yet another hearing was conducted on that day wherein Defendant was warned that the court had lost patience, and Defendant was given one last chance to remedy its failure to obey the court’s previous orders. *See* dkt. 45. Thus, on December 15, 2021 (more than six weeks after being ordered to produce the discovery in question), Defendant was ordered “to file a certification of [its] **full and proper** compliance” with the court’s discovery orders by close of business on Friday, December 17, 2021. *See id.* (emphasis added). Then, on December 17th, Defendant filed what it contended to be a notice of “substantial

1 compliance,” despite the court’s clear admonishment that anything shy of full and proper
2 compliance would result in an order setting an expedited briefing schedule for coercive sanctions
3 aimed at putting an end to Defendant’s gamesmanship. *See* Def.’s Notice of Substantial
4 Compliance (dkt. 46). Thereafter, on Monday, December 20, 2021, Plaintiff filed a notice (dkt. 47)
5 detailing the many areas in which Defendant’s production continues to be deficient, and therefore
6 in violation of the court’s several orders.

7 The time has now come for more severe measures such that Defendant, and its counsel,
8 can be made to understand that compliance with this court’s orders is neither optional nor subject
9 to circumvention. Accordingly, the court will take a two-tiered approach to curing Defendant’s
10 intransigence: first the court will establish an expedited briefing schedule to set a reasonable
11 amount for a daily fine (which may be directed at Defendant and its attorneys, jointly and
12 severally) to induce full and proper compliance with an order than is now nearly two months old;
13 then, if that regime of daily fines still fails to secure Defendant’s obedience to the court’s
14 discovery orders after a reasonable period of time, the undersigned will consider more drastic
15 measures such as, for example, issuing a report and recommendation for the presiding judge to
16 consider entering a finding of contempt, imposing an adverse inference presumption, or entering a
17 default judgment against Defendant. As to any request for attorneys’ fees, such that Plaintiff can
18 be compensated for being made to file its motion to compel the discovery in question, along with
19 its subsequent and continuing efforts to seek enforcement of that order, the undersigned will
20 entertain such a motion (if Plaintiff wishes to file one) after the issue of Defendant’s continuing
21 noncompliance with the court’s discovery orders is finally resolved.

22 Accordingly, since Plaintiff has already detailed what portions of the discovery is still
23 deficient and outstanding, Plaintiff is **ORDERED** to file its brief in support of coercive sanctions
24 by 5:00 pm on Wednesday, December 22, 2021. Plaintiff should propose a daily fine amount that
25 is sufficient, but not greater than necessary, to compel speedy compliance from Defendant and its
26 counsel. Thereafter, Defendant is **ORDERED** to file a response no later than 5:00 pm on Friday,
27 December 24, 2021. Defendant and its counsel are warned that if they fail to raise, and justify, the
28 issue of any inability to pay the sums proposed by Plaintiff in the responsive brief, the court will

1 deem those issues waived. Plaintiff is then directed to file any reply brief it wishes to file (if at all)
2 no later than 12:00 pm on Tuesday, December 28, 2021. The matter will then be heard via a
3 telephonic hearing at 11:00 am on Wednesday, December 29, 2021. The Parties shall use the same
4 dial-in instructions that they have previously used (Dial-in Number: 888-684-8852 / Access Code
5 1868782).

6 **IT IS SO ORDERED.**

7 Dated: December 21, 2021

8 
9 _____
10 ROBERT M. ILLMAN
11 United States Magistrate Judge
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

United States District Court
Northern District of California